THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 10877 of 1997

DATED:05-07-2006

S.A.Mohiuddin Agasia.

..... PETITIONER

AND

The Managing Director,
A.P.S.R.T.C.,
Musheerabad,
Hyderabad & 2 others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 10877 of 1997

ORDER:

This Writ Petition is filed to issue writ of Mandamus declaring the impugned proceedings, issued by the 2nd respondent in proceedings No.P2/227(1)/97-RM:MR dated 24-04-1997 served on 08-05-11997, reverting the petitioner from the post of Head Clerk to Senior Clerk, as illegal, unjust and arbitrary.

2. Heard the learned counsel for the petitioner as well as the learned counsel for the respondents.

3. Petitioner was initially appointed as Time Keeper with effect from 04-12-1961 and was promoted as Time Clerk in the year, 1967. Subsequently he was promoted to the post of the Head Clerk with effect from 18-05-1996 and posted to Narayankhed Depot of Medak Division.

4. It is the case of the petitioner that though he was promoted and posted as Head Clerk with effect from 18-05-1996 the Head Clerk at Narayankhed Depot refused to hand over the charge for a period of one month ten days i.e. upto 06-07-1996. It is stated that he has reported to duty on 30-05-1996 as a Head Clerk, Narayankhed Depot, but charge was not handed over to him till 06-07-1996. It is stated that on the date of assuming charge, i.e., on 06-07-1996 itself, first charge sheet has been issued relating to charge No.1. Thereafter, two more charge sheets have been issued dated 25-07-1996 and 27-09-1996 relating to charge Nos.2 to 5. It is further stated that for the first charge sheet the petitioner filed a detailed explanation dated 17-04-1997 denying all the charges stating that though he has reported to duty on 30-05-1996 he was not given the charge by Dhananjay, Head Clerk,

Narayankhed Depot. A perusal of the explanation given by the petitioner goes to show that except taking the defence that the said Dhananjay was not relieved upto 06-07-1996 no specific explanation has been submitted with regard to the other charges. Insofar as Charge No.3 is concerned absolutely there is no explanation. The charges that have been levelled against the petitioner are as follows:

> *"**CHARGE NO:1** : For your gross negligence in not taking over the charge from Sri T.Dhananjay, Head Clerk even though one month has lapsed since you reported at Narayankhed depot, which constitutes misconduct under Regulation 28(ix-a) of the Andhra Pradesh State Road Transport Corporation Employees (Conduct) Regulation Act, 1963".*
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> *"**CHARGE NO:2** : For your gross disobedience to the instructions given by the Depot Manager, Narayankhed Depot in not preparing the list of the unconnected personnel records and other works entrusted to you, which constitutes misconduct in terms of Regulation 28 (viii) of the Andhra Pradesh State Road Transport Corporation Employees (Conduct) Regulation Act, 1963".*
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> *" **CHARGE NO:3** : You have fail to put up the case of Sri K.Prathap, E.251567, Ex-Driver of Narayankhed depot with para-wise comments to SC on or before 05-07-1996, but the same is put by you on expiry of date, which is serious misconduct under Regulation 28(ixa) of the Andhra Pradesh State Road Transport Corporation Employees (Conduct) Regulation Act, 1963".*
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> *"**CHARGE NO:4** : You have left the Head quarters on 20-07-1997 without permission from the undersigned which is serious misconduct under Regulation 5 of the Andhra Pradesh State Road Transport Corporation Employees (Conduct) Regulation Act, 1963".*
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> *"**CHARGE NO:5** For having failed to send the replies of Audit paras upto till date and also failing to put up para-wise comments of Court cases, even though several reminders*

received by you, which is a serious misconduct under Regulation 28(ix-a) (ix-b) of the Andhra Pradesh State Road Transport Corporation Employees (Conduct) Regulation Act, 1963".

As the explanation offered by the petitioner was not satisfactory enquiry has been conducted and during the course of enquiry proceedings the petitioner failed to produce any documentary evidence to defend his case. Charge No.3 relates to one K.Prathap, Ex-Driver of Narayankhed depot with para-wise comments to the show cause on or before 05-07-1996 and the same was not put up on the date of the enquiry. Admittedly, on 05-07-1996 also when the petitioner went to Narayankhed Depot to join duty as Head Clerk, BUT he has not given any explanation. Insofar as charge No.4 also it is proved that he left the head quarters on
20-07-1997 without permission from the Depot Manager which is also serious misconduct under the Regulation 5 of the Andhra Pradesh State Road Transport Corporation Employees (Conduct) Regulation Act, 1963. Insofar as charge No.5 with regard to putting up the para-wise comments and sending replies to audit paras upto date there is no specific explanation by the petitioner. Having regard to the facts and circumstances and as the charges have been proved the said punishment was imposed on the petitioner. It is stated that the petitioner also retired on
28-02-1998.

5. Having perused the charges, explanation, enquiry report and the impugned order, reverting the petitioner from the post of Head Clerk to the post of Senior Clerk, I am of the opinion that the said punishment is not disproportionate to the charges and therefore,
I do not see any infirmity legal or otherwise in the impugned order.

6. Accordingly, the Writ Petition is dismissed. No costs.

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(V.ESWARAIAH,J)

05th July, 2006.

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